

AMENDED IN SENATE JUNE 22, 2010

AMENDED IN ASSEMBLY JUNE 1, 2009

AMENDED IN ASSEMBLY APRIL 20, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 702

Introduced by Assembly Member Salas

February 26, 2009

~~An act to amend Section 50802 of the Health and Safety Code, An act to amend Section 50517.5 of the Health and Safety Code, relating to housing and community development.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 702, as amended, Salas. ~~Emergency Housing and Assistance Fund. Joe Serna, Jr. Farmworker Housing Grant Program: agricultural employees.~~

Existing law establishes the Joe Serna, Jr. Farmworker Housing Grant Program, administered by the Department of Housing and Community Development, under which, subject to the availability of funds, grants or loans, or both, are made available for the construction or rehabilitation of housing for agricultural employees, as defined, and their families or for the acquisition of manufactured housing to remedy the impacts of the displacement of farmworker families.

This bill would modify the definition for the term “agricultural employees.”

~~Existing law creates within the State Treasury the Emergency Housing and Assistance Fund, a continuously appropriated fund, to carry out the purposes of the Emergency Housing and Assistance Program. Existing law requires the Department of Housing and Community Development~~

~~to ensure that not less than 20% of the moneys in the fund be allocated to nonurban counties during any given fiscal year.~~

~~This bill would also require the department to ensure that a certain percentage of the moneys in the fund be allocated to sponsors of veterans only homeless projects or projects that give preference to veterans during any given fiscal year. The bill would require that funds not utilized to their full capacity during the fiscal year be allocated in that fiscal year for general distribution in accordance with the intent and purposes of the program.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes-no~~.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 50517.5 of the Health and Safety Code*
2 *is amended to read:*

3 50517.5. (a) (1) The department shall establish the Joe Serna,
4 Jr. Farmworker Housing Grant Program under which, subject to
5 the availability of funds therefor, grants or loans, or both, shall be
6 made to local public entities, nonprofit corporations, limited
7 liability companies, and limited partnerships, for the construction
8 or rehabilitation of housing for agricultural employees and their
9 families or for the acquisition of manufactured housing as part of
10 a program to address and remedy the impacts of current and
11 potential displacement of farmworker families from existing labor
12 camps, mobilehome parks, or other housing. Under this program,
13 grants or loans, or both, may also be made for the cost of acquiring
14 the land and any building thereon in connection with housing
15 assisted pursuant to this section and for the construction and
16 rehabilitation of related support facilities necessary to the housing.
17 In its administration of this program, the department shall disburse
18 grants or loans, or both, to the local public entities, nonprofit
19 corporations, limited liability companies, or limited partnerships
20 or may, at the request of the local public entity, nonprofit
21 corporation, limited liability company, or limited partnership that
22 sponsors and supervises the rehabilitation or construction program,
23 disburse grant funds to agricultural employees who are participants
24 in a rehabilitation or construction program sponsored and
25 supervised by the local public entity, nonprofit corporation, limited
26 liability company, or limited partnership. No part of a grant or loan

1 made pursuant to this section may be used for project organization
2 or planning.

3 (2) Notwithstanding any other provision of this chapter, upon
4 the request of a grantee the program also may loan funds to a
5 grantee at no more than 3 percent simple interest. Principal and
6 accumulated interest is due and payable upon completion of the
7 term of the loan. For any loan made pursuant to this subdivision,
8 the performance requirements of the lien shall remain in effect for
9 a period of no less than the original term of the loan.

10 (3) The program shall be administered by the Director of
11 Housing and Community Development and officers and employees
12 of the department as he or she may designate.

13 (b) (1) The Joe Serna, Jr. Farmworker Housing Grant Fund is
14 hereby created in the State Treasury. Notwithstanding Section
15 13340 of the Government Code, all money in the fund is
16 continuously appropriated to the department for making grants or
17 loans, or both, pursuant to this section and Section 50517.10, for
18 purposes of Chapter 8.5 (commencing with Section 50710), and
19 for costs incurred by the department in administering these
20 programs.

21 (2) There shall be paid into the fund the following:

22 (A) Any moneys appropriated and made available by the
23 Legislature for purposes of the fund.

24 (B) Any moneys that the department receives in repayment or
25 return of grants or loans from the fund, including any interest
26 therefrom.

27 (C) Any other moneys that may be made available to the
28 department for the purposes of this chapter from any other source
29 or sources.

30 (D) All moneys appropriated to the department for the purposes
31 of Chapter 8.5 (commencing with Section 50710) and any moneys
32 received by the department from the occupants of housing or shelter
33 provided pursuant to Chapter 8.5 (commencing with Section
34 50710). These moneys shall be separately accounted for from the
35 other moneys deposited in the fund.

36 (c) (1) Grants and loans made pursuant to this section shall be
37 matched by grantees with at least equal amounts of federal moneys,
38 other cash investments, or in-kind contributions.

39 (2) For grant or loan requests of not more than five hundred
40 thousand dollars (\$500,000), the department may waive a part of

1 the matching fund requirement in this subdivision if the grantee
2 demonstrates an inability, as may be established by the department
3 in “Notices of Funding Availability,” to secure adequate financing
4 from other sources. Not more than 5 percent of the total amount
5 appropriated to the department for the purposes of this section may
6 be used to meet grant or loan requests in which a part of the
7 matching fund requirement has been waived pursuant to this
8 paragraph.

9 (d) With respect to the supervision of grantees, the department
10 shall do the following:

11 (1) Establish minimum capital reserves to be maintained by
12 grantees.

13 (2) Fix and alter from time to time a schedule of rents that may
14 be necessary to provide residents of housing assisted pursuant to
15 this section with affordable rents to the extent consistent with the
16 maintenance of the financial integrity of the housing project. No
17 grantee shall increase the rent on any unit constructed or
18 rehabilitated with the assistance of funds provided pursuant to this
19 section without the prior permission of the department, which shall
20 be given only if the grantee affirmatively demonstrates that the
21 increase is required to defray necessary operating costs or avoid
22 jeopardizing the fiscal integrity of the housing project.

23 (3) Determine standards for, and control selection by grantees
24 of, tenants and subsequent purchasers of housing constructed or
25 rehabilitated with the assistance of funds provided pursuant to this
26 section.

27 (4) (A) Require as a condition precedent to a grant or loan, or
28 both, of funds that the applicant have site control that is satisfactory
29 to the department; that the grantee be record owner in fee of the
30 assisted real property or provide other security including a lien on
31 the manufactured home that is satisfactory to the department to
32 ensure compliance with the construction, financial, and program
33 obligations; and that the grantee shall have entered into a written
34 agreement with the department binding upon the grantee and
35 successors in interest to the grantee. The agreement shall include
36 the conditions under which the funds advanced may be repaid.
37 The agreement shall include provisions for a lien on the assisted
38 real property or manufactured home in favor of the State of
39 California for the purpose of securing performance of the
40 agreement. The agreement shall also provide that the lien shall

1 endure until released by the Director of Housing and Community
2 Development.

3 (B) If funds granted or loaned pursuant to this section constitute
4 less than 25 percent of the total development cost or value,
5 whichever is applicable, of a project assisted under this section,
6 the department may adopt, by regulation, criteria for determining
7 the number of units in a project to which the restrictions on
8 occupancy contained in the agreement apply. In no event may
9 these regulations provide for the application of the agreement to
10 a percentage of units in a project that is less than the percentage
11 of total development costs that funds granted or loaned pursuant
12 to this section represent.

13 (C) Contemporaneously with the disbursement of the initial
14 funds to a grantee, the department shall cause to be recorded, in
15 the office of the county recorder of the county in which the assisted
16 real property is located, a notice of lien executed by the Director
17 of Housing and Community Development. The notice of lien shall
18 refer to the agreement required by this paragraph for which it
19 secures and it shall include a legal description of the assisted real
20 property that is subject to the lien. The notice of lien shall be
21 indexed by the recorder in the Grantor Index to the name of the
22 grantee and in the Grantee Index to the name of the State of
23 California, Department of Housing and Community Development.
24 For manufactured housing, the liens shall be recorded by the
25 department in the same manner as other manufactured housing
26 liens are recorded. The department shall adopt by regulation criteria
27 for the determination of the lien period. This regulation shall take
28 into account whether the property is held by multifamily rental,
29 single-family ownership, or cooperative ownership and whether
30 it is new construction or rehabilitative construction. The lien period
31 for manufactured housing liens for manufactured homes shall not
32 exceed 10 years.

33 (D) Pursuant to regulations adopted by the department, the
34 department may execute and cause to be recorded in the office of
35 the recorder of the county in which a notice of lien has been
36 recorded, or the department, as appropriate, a subordination of the
37 lien. The regulations adopted by the department shall provide that
38 any subordination of the lien shall not jeopardize the security
39 interest of the state and shall further the interest of farmworker
40 housing. The recitals contained in the subordination shall be

1 conclusive in favor of any bona fide purchaser or lender relying
2 thereon.

3 (E) Prior to funds granted pursuant to this section being used
4 to finance the acquisition of a manufactured home, the grantee
5 shall ensure that the home either is already installed in a location
6 where it will be occupied by the eligible household or that a
7 location has been leased or otherwise made available for the
8 manufactured home to be occupied by the eligible household.

9 (5) Regulate the terms of occupancy agreements or resale
10 controls, to be used in housing assisted pursuant to this section.

11 (6) Provide linguistically appropriate services and publications,
12 or require grantees to do so, as necessary to implement the purposes
13 of this section.

14 (7) The agreement between the department and the grantee shall
15 provide, among other things, that both of the following occur:

16 (A) Upon the sale or conveyance of the real property, or any
17 part thereof, for use other than for agricultural employee
18 occupancy, the grantee or its successors shall, as a condition for
19 the release of the lien provided pursuant to paragraph (4), repay
20 to the fund the department's grant and loan funds.

21 (B) Upon the sale or conveyance of the real property or any part
22 thereof for continued agricultural employee occupancy, the
23 transferee shall assume the obligation of the transferor and the real
24 property shall be transferred to the new owner; provided that the
25 transferee agrees to abide by the agreement entered into between
26 the transferor and the department and that the new owner takes
27 the property subject to the lien provided pursuant to paragraph (4),
28 except that this lien shall, at the time of the transfer of the property
29 to the new owner, be extended for an additional lien period
30 determined by the department pursuant to paragraph (4), and the
31 new owner shall not be credited with the lien period that had run
32 from the time the transferor had acquired the property to the time
33 of transfer to the new owner, unless the department determines
34 that it is in the best interest of the state and consistent with the
35 intent of this section to so credit the lien period to the new owner.
36 However, the lien shall have priority as of the recording date of
37 the lien for the original grantee, pursuant to paragraph (4).

38 (e) The department may do any of the following with respect
39 to grantees:

1 (1) Through its agents or employees enter upon and inspect the
2 lands, buildings, and equipment of a grantee, including books and
3 records, at any time before, during, or after construction or
4 rehabilitation of units assisted pursuant to this section. However,
5 there shall be no entry or inspection of any unit that is occupied,
6 whether or not any occupant is actually present, without the consent
7 of the occupant.

8 (2) Supervise the operation and maintenance of any housing
9 assisted pursuant to this section and order repairs as may be
10 necessary to protect the public interest or the health, safety, or
11 welfare of occupants of the housing.

12 (f) The department shall include in its annual report required
13 by Section 50408, a current report of the Joe Serna, Jr. Farmworker
14 Housing Grant Program. The report shall include, but need not be
15 limited to, (1) the number of households assisted, (2) the average
16 income of households assisted and the distribution of annual
17 incomes among assisted households, (3) the rents paid by
18 households assisted, (4) the number and amount of grants or loans,
19 or both, made to each grantee in the preceding year, (5) the dollar
20 value of funding derived from sources other than the state for each
21 project receiving a grant or loan, or both, under this section, and
22 an identification of each source, (6) recommendations, as needed,
23 to improve operations of the program and respecting the desirability
24 of extending its application to other groups in rural areas identified
25 by the department as having special need for state housing
26 assistance, and (7) the number of manufactured housing units
27 assisted under this section.

28 (g) As used in this section:

29 (1) "Agricultural employee" has the same meaning as specified
30 in subdivision (b) of Section 1140.4 of the Labor Code, but also
31 includes any person who works at a packing shed for a labor
32 contractor or other entity that contracts with an agricultural
33 employer in order to perform services *on or off the farm* in
34 connection with handling, drying, packing, *processing*, or storing
35 any agricultural commodity ~~in its raw or natural state~~, whether or
36 not this person is encompassed within the definition specified in
37 subdivision (b) of Section 1140.4 of the Labor Code.

38 (2) "Grantee" means the local public entity, nonprofit
39 corporation, limited liability company, or limited partnership that
40 is awarded the grant or loan, or both, under this section, and, at

1 the request thereof, may include an agricultural employee receiving
2 direct payment of a grant for rehabilitation under this section who
3 occupies the assisted housing both before and after the
4 rehabilitation and may include an agricultural employee receiving
5 direct payment of a grant for construction under this section who
6 will occupy the assisted housing and who is a participant in a
7 rehabilitation or construction program sponsored and supervised
8 by a local public entity, nonprofit corporation, limited liability
9 company, or limited partnership.

10 (3) "Housing" may include, but is not necessarily limited to,
11 conventionally constructed units and manufactured housing
12 installed pursuant to either Section 18551 or 18613.

13 (4) "Limited liability company" means a limited liability
14 company where all the members are nonprofit public benefit
15 corporations.

16 (5) "Limited partnership" means a limited partnership where
17 all of the general partners are either nonprofit public benefit
18 corporations, limited liability companies, or a combination of
19 nonprofit public benefit corporations and limited liability
20 companies.

21 (h) The department may provide the assistance offered pursuant
22 to this chapter in any area where there is a substantial unmet need
23 for farmworker housing.

24 ~~SECTION 1. Section 50802 of the Health and Safety Code is~~
25 ~~amended to read:~~

26 ~~50802. (a) The department shall ensure that not less than 20~~
27 ~~percent of the moneys in the Emergency Housing and Assistance~~
28 ~~Fund shall be allocated to nonurban counties during any given~~
29 ~~fiscal year. If the funds designated for facilities operation that are~~
30 ~~allocated to nonurban counties are not awarded by the end of that~~
31 ~~fiscal year, then those unencumbered funds shall be allocated in~~
32 ~~the next fiscal year to urban counties. Funds for capital~~
33 ~~development that are not awarded by the end of the second fiscal~~
34 ~~year shall be awarded in the subsequent fiscal year to urban~~
35 ~~counties.~~

36 ~~(b) The amount of funds that the department allocates from the~~
37 ~~Emergency Housing and Assistance Fund to each region, excluding~~
38 ~~funds allocated pursuant to subdivision (a), shall be based upon a~~
39 ~~formula that accords at least 20 percent weight to each of the~~
40 ~~following factors:~~

1 ~~(1) The relative number of persons in the region below the~~
2 ~~poverty line according to the most recent federal census, updated,~~
3 ~~if possible, with an estimate by the Department of Finance,~~
4 ~~compared to the total of the urban counties.~~

5 ~~(2) The relative number of persons unemployed within each~~
6 ~~region, based on the most recent one-year period for which data~~
7 ~~is available, compared to the total of the urban counties.~~

8 ~~(c) Grant funds shall be disbursed as expeditiously as possible~~
9 ~~by the department.~~

10 ~~(d) The department shall use not more than 5 percent of the~~
11 ~~amount available for funds pursuant to this chapter to defray the~~
12 ~~department's administrative costs pursuant to this chapter.~~

13 ~~(e) Notwithstanding any other provision of this chapter, the~~
14 ~~department shall distribute funds appropriated for purposes of the~~
15 ~~activities specified in paragraph (2) of subdivision (a) of Section~~
16 ~~50803 as grants in the form of forgivable deferred loans, subject~~
17 ~~to all of the following:~~

18 ~~(1) Funding shall be made available to each project as a loan~~
19 ~~with a term of five years for rehabilitation, seven years for~~
20 ~~substantial rehabilitation, or 10 years for acquisition and~~
21 ~~rehabilitation or new construction. Each deferred loan shall be~~
22 ~~secured by a deed of trust and promissory note. Repayment of the~~
23 ~~loan shall be deferred as long as the project is used as an emergency~~
24 ~~shelter or transitional housing. At the completion of the specified~~
25 ~~year term, the loan shall be forgiven. If a transfer or conveyance~~
26 ~~of the project property, however, occurs prior to that time that~~
27 ~~results in the property no longer being used as an emergency shelter~~
28 ~~or transitional housing, the department shall terminate the grant~~
29 ~~and require the repayment of the deferred loan in full.~~

30 ~~(2) Applications for funding shall be made pursuant to~~
31 ~~department-issued statewide "Notices of Funding Availability"~~
32 ~~without the need for additional regulations.~~

33 ~~(3) The department shall set forth the criteria for evaluating~~
34 ~~applications in the "Notices of Funding Availability" and shall~~
35 ~~make deferred loans based on those applications that best meet the~~
36 ~~criteria.~~

37 ~~(4) The department shall specify in the "Notice of Funding~~
38 ~~Availability" both maximum and minimum grant amounts that~~
39 ~~may be varied for urban and nonurban counties.~~

1 ~~(5) Contracts for projects that have not begun construction~~
2 ~~within the initial 12-month period shall be terminated and funds~~
3 ~~reallocated. The department, however, may extend this period by~~
4 ~~a period not to exceed 12 months.~~

5 ~~(f) (1) The department shall ensure that a percentage of the~~
6 ~~moneys in the Emergency Housing and Assistance Fund be~~
7 ~~allocated to sponsors of veterans-only homeless projects or projects~~
8 ~~that give preference to veterans during any given fiscal year. The~~
9 ~~department shall use the percentage calculated pursuant to~~
10 ~~paragraph (2).~~

11 ~~(2) The department, in conjunction with the Department of~~
12 ~~Veterans Affairs, shall use existing data to annually determine the~~
13 ~~percentage of veterans within the homeless population.~~

14 ~~(3) If the funds designated pursuant to paragraph (1) are not~~
15 ~~utilized to their full capacity during the fiscal year, then those~~
16 ~~unencumbered funds shall be allocated in that fiscal year for~~
17 ~~general distribution in accordance with the intent and purposes of~~
18 ~~this chapter.~~